

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSE GUADALUPE TELLO,

Petitioner,

vs.

UNITED STATES IMMIGRATION AND
NATURALIZATION SERVICE,

Respondent.

3:10-cv-00561-RCJ-RAM

ORDER

This *pro se* prisoner matter comes before the Court for initial review.

The papers presented are subject to multiple substantial defects.

First, it is not clear even that petitioner is seeking to initiate a federal civil action. The papers submitted are not captioned for a court. The papers instead appear to constitute a petition to the former Immigration and Naturalization Service that has been copied to the Clerk of this Court.

Second, if petitioner instead seeks relief from this Court, he must either pay the filing fee or obtain leave to proceed *in forma pauperis*. Neither the filing fee nor an application to proceed *in forma pauperis* was submitted with the papers on file.

Third, if petitioner intends to initiate a civil action, he must file the action on the Court's required form for either a civil rights complaint or a habeas petition. Petitioner may not file a handwritten complaint or petition. Local Rule LSR 2-1 requires that a civil rights complaint be filed on the Court's required complaint form, and Local Rule LSR 3-1 requires that a habeas

1 petition be filed on the Court's required petition form.

2 Fourth, if petitioner is seeking to initiate a habeas action, it is subject to question as to
3 whether he has sued the proper custodial respondent.

4 Fifth, in all events, the Court does not have jurisdiction over a habeas petition directed
5 to an immigration detainer because such a detainer does not place a petitioner in custody for
6 purposes of federal habeas jurisdiction under 28 U.S.C. § 2241. *See, e.g., Campos v.*
7 *Immigration and Naturalization Service*, 62 F.3d 311, 314 (9th Cir. 1995).

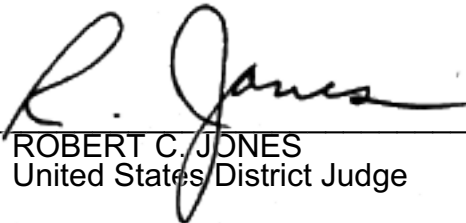
8 Due to the multiple substantial defects presented on the face of the papers filed, this
9 action will be dismissed without prejudice.

10 IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice.

11 The Clerk of Court shall enter final judgment accordingly, dismissing this action without
12 prejudice.

13 DATED: This 19th day of October, 2010.

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ROBERT C. JONES
United States District Judge